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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,158	04/17/2001	Christophe Lefevre	KOB 18	7357

7590
05/22/2003
Maria Parrish Tungol
Suite 500
2231 Crystal Drive
Arlington, VA 22202

EXAMINER

TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 05/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/836,158

Applicant(s)

LEFEVRE, CHRISTOPHE

Examiner

Cephia D. Toomer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 2 and 15-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) 2,15-28

is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

DETAILED ACTION

This office action is in response to the letter filed April 18, 2003; and the amendment filed December 13, 2002 in which claims 1 and 3-14 were canceled and 2 was amended. Applicant indicates that claim 15 is amended. However, there were only 14 original claims.

The previous rejection of the claims under 35 U.S.C. 112, second paragraph is withdrawn in view of the amendment and/or cancellation of the claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 15-21, 27 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 is rejected because it is a new claim that is a dependent of claims which succeeds it.

Claim 16 and its dependents are rejected because claim 16 does not set forth how the solid combustible element is made. The method steps begin with an internal space being formed in the solid combustible element.

Claims 2 and 15-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornwell (us 4,670,018)

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Cornwell teaches a fuel element in the form of a log, made from highly compressed cellulosic material, having a central bore wherein the walls of the bore are coated with aluminum particles (see abstract; col.2, lines 2-5; col.2, lines 28-31). The sources of the cellulosic material are paper, wood or cardboard (see col.1, lines 32-35). The cellulosic material is hydrolyzed such that the cellulose and gums present in the material act as binders (see col.1, lines 43-54). Heat is applied during the compression of the log (see col.1, lines 62-68). Cornwell teaches the limitations of the claims other than the differences that are discussed below.

In the first aspect, Cornwell differs from the claims in that he does not specifically teach that the aluminum is a product for disintegrating a combustion deposit layer. However, no unobviousness is seen in this difference because Cornwell teaches that the aluminum reacts with the steam that is produced when the log is combusted and that the result is a log that produces five times as much heat as the prior art element. This teaching suggests that no combustion deposits would form, absent evidence to the contrary.

In the second aspect, Cornwell differs from the claims in that he does not specifically teach that the bore is made during compression. However, no unobviousness is seen in this difference because Cornwell teaches that the log contains a bore and whether it is formed during compression or after compression is not critical, absent evidence to the contrary.

Claims 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farjon (US5,882,365).

Farjon teaches a solid fuel containing a soot disaggregating combustible agent. The solid fuel comprises cellulosic particulate materials and a binder. Farjon teaches that the soot disaggregating combustible agent may be arranged in the center of the composition or along the central axis thereof (see abstract; col. 2, lines 35-57). Farjon teaches that the fuel composition may be prepared in the same manner as a compressed log (see col. 4, lines 37-49).

Farjon teaches the limitations of the claims other than that the log is prepared by the method of claim 16. However, "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

Applicant's arguments have been considered but are not deemed to be persuasive.

Applicant argues that Farjon fails to teach a fire log containing a central bore wherein soot-disintegrating material is placed inside the central bore. Applicant further argues that all of the materials of Farjon are admixed and are not separate wherein the disintegrating material is included in a central bore.

Farjon teaches at col.2, lines 49-57 that the materials may be present in a substantially homogeneous mixture, but Farjon also teaches that the combustible material contains the soot disintegration material within its center or along the central axis thereof. Farjon clearly teaches that the disintegrating material may be in the center of combustible log.

Applicant argues that Cornwell fails to teach that the central bore of his fire log is filled with any of the claimed liquid, powder or solid soot disintegrating components.

Applicant's claim nor Specification indicates that the central bore is completely filled with the disintegrating component. Since Cornwell sprays his composition and the composition coats the central bore of the fire log, it would appear that Cornwell meets the limitation regarding the bore i.e., the disintegrating component is located within the central bore.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 703-308-2509. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Cephia D. Toomer
Primary Examiner
Art Unit 1714

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May 20, 2003